IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3391 OF 2004

IN

SUIT NO.2798 of 1985

1.Velji Mulchand Thakkar & others. ... Plaintiffs.

vs.

1(a) Gunwanti wd/o. Gordhandas Kapadia & ors. ... Defendants.

Mr. Chirag Balsara i/b. Desai & Diwanji, for Plaintiffs.

Mr.Rishabh Shah with M.A.Shah i/b. A.G.Shah, for Defendants in support.

CORAM: D.K.DESHMUKH,J.

DATED: 1st April,2005

P.C.:-

1. The settlement arrived at, as a result of the negotiations, was without prejudice to the rights and contentions of both the parties. Before the settlement could be finalised and the Court could pass the order, the settlement is resiled from by the plaintiffs which they are entitled to do. It is not the case of the defendants that the defendants on the basis of settlement had taken any

action to their prejudices. Admission is capable of being withdrawn and explained at any time. Only when the other side has acted on the admission to its prejudices, then estoppal operates against the party and the admission cannot be withdrawn. No such case is made out in this case. Therefore, the Notice of Motion is disposed of.

1.4.2005 ---